

RULE AMENDMENTS

ADOPTED SEPTEMBER 14, 2001

Rule 790-X-1-.09

Rule 790-X-1-.10

Rule 790-X-1-.11

Rule 790-X-1-.12

Rule 790-X-1-.17

Rule 790-X-2-.02

Rule 790-X-2-.03

Rule 790-X-1-.09. Instructor Approval for Continuing Education Courses.

EFFECTIVE OCTOBER 22, 2001

(1) Every instructor applicant for continuing education, except those who teach only courses listed in Rules 790-X-1-.11(5)(a), (b), (c) (e) and/or 790-X-1-.21(5) must apply for approval on a form prescribed by the Commission along with the appropriate fee. No instructor may begin teaching a course offered for continuing education credit until he/she has received written approval from the Commission.

(2) Instructor Qualifications. A person seeking approval to teach an approved continuing course, must meet the qualifications as prescribed in Rule 790-X-1-.07 except that a person may seek approval to teach continuing education courses in his/her principal occupation by possessing one of the following:

(a) Bachelor's degree in the field of instruction plus at least two years experience in the field of instruction;

(b) Teaching experience consisting of at least 75 hours in the application field within 3 years immediately preceding the date of the instructor's application plus 3 years full time experience in the field of instruction;

(c) Six years full time experience in the profession, trade or occupation in the field of instruction;

(d) Any combination of at least six years of full time experience relevant to the application field and college level education with course work in the field of instruction.

(3) All instructor applicants qualifying under (2) above must submit documentation of qualifications and a resume outlining experience, education and/or teaching experience in the applicable field.

~~(4) Instructors for courses listed under Rule 790-X-1-.11(5)(e) will be approved when certified by their respective institutions.~~

~~(4) (5)~~ Approved instructors shall earn continuing education credit for teaching an approved continuing education course. Credit earned for teaching will be the same as credit earned by the student.

~~(5) Upon completion of a course taught by an approved instructor who holds a real estate license, said instructor shall complete a Certificate of Completion for himself/herself and send it to the Commission in accordance with filing procedures. Instructors may file certificates only once per license period for the same course. Beginning January 1, 2001, course completion must be filed electronically via a program specified by the Commission.~~

Statutory Authority: Code of Ala. 1975, §§ 34-27-6; 34-27-8; 34-27-35.

Rule 790-X-1-.10. Application and Renewal Requirements for Instructors, Courses and Schools.

(1) Schools and instructors must submit application for approval on forms prescribed by the Commission. Instructors must submit application for course approval on a form prescribed by the Commission. Schools and instructors shall renew their Commission approval every two years in the odd numbered years. The approval year shall run from October 1 through September 30.

(2) School and instructor renewal forms prescribed by the Commission shall be mailed to instructors by August 1 of the second year of the approval period. Instructors who do not receive their renewal forms by August 10 must notify the Commission so that a form may be mailed to them.

(3) Instructor renewal forms shall contain a list of courses which that instructor is approved to teach.

(a) In order to retain approval for each course, the instructor must file an updated outline and learning objectives with the renewal form. Failure to submit the outline and learning objectives will result in the course being deleted from the list of courses the instructor is approved to teach.

(b) Courses that the instructor has not taught within the renewal period will be deleted from the list of approved courses unless an updated outline and learning objectives are filed. Once a course is deleted, it is subject to all requirements of new courses and cannot be offered until written approval has been received from the Commission.

(4) Effective December 15, 2000 and thereafter, the initial fee for instructor approval shall be \$50 per year or any portion thereof except that instructors who teach only elective continuing education shall pay an initial fee of \$25 per year or any portion thereof. The initial course review fee shall be \$100. The fee for instructor renewal is \$50 per year or any portion thereof or \$100 for the two year approval period. For those who teach only elective continuing education the fee shall be \$25 per year or any portion thereof or \$50 for the two year approval period. There is no renewal fee for courses.

(5) Instructors who teach only courses listed in Rule 790-X-1-.07(2) or Rule 790-X-1-.11(5)(a), (b), (c) and (e) shall not be required to pay either the initial instructor application fee or the instructor renewal fee.

~~(5)~~ (6) The Commission prescribed renewal forms, renewal fee, and proof of completion of instructor renewal requirements shall be filed on or before August 31 of the final year of each approval period in order for the respective approval to be renewed on a timely basis for the following approval period.

~~(6)~~ (7) Failure to meet this deadline shall result in the approval being terminated until the instructor meets all renewal requirements. If renewal requirements are not met within one year which is by September 30 of the first year of the next approval period, the approval may not be renewed and the

instructor must apply as an original applicant and meet all requirements applicable to new instructors.

~~(7)~~ (8) Failure of an approved school to meet the August 31 filing deadline will result in the approval of courses and instructors for that school being terminated until renewal requirements are met.

~~(8)~~ (9) All instructors, except those who teach only elective continuing education courses, must attend the annual instructors' seminar in order to retain approval. For absences due to an approved hardship or emergency, the Commission may specify another training program in order to meet this requirement.

Statutory Authority: Code of Ala. 1975, §§ 34-27-6; 34-27-8.

Rule 790-X-1- .11. Course Content for Continuing Education.

(1) To meet continuing education requirements, licensees must complete one of the following three (3) clock hour courses prescribed by the Commission once each license period:

(a) License Law/Trust Funds - Course Code 990

(b) Fair Housing, Equal Opportunity and ADA - Course Code 100

(c) RECAD - Course Code 700

(2) In order to meet continuing education requirements, licensees must complete, prior to October 1, 2000 and thereafter, a three (3) clock hour course in Risk Management (Course Code 500) as prescribed by the Commission once each license period.

~~(3) For the renewal of the 2001-2002 license, the requirement in paragraph 2 of this rule does not apply to licensees who satisfied the 12-hour continuing education requirement prior to September 1, 1999.~~

(3) If instructors offer courses listed in paragraphs (1) and (2) in increments less than three hours, students may not earn any continuing education credit for that course until the student has completed all three hours. Students must take all three hours in any one course from the same instructor in order to earn continuing education credit for that course.

(4) Each student shall have and use during each of the courses listed in (1) and (2) above, the Commission prescribed outline, text and/or materials which are the most current.

(5) The remaining nine (9) clock hours of the fifteen (15) hour continuing education requirement will be met when the licensee completes one or more of the following courses each license period:

(a) Any one of the Graduate, Realtor's Institute courses;

(b) Any course offered by the National Association of Real Estate Brokers which leads to earning any of their designations;

(c) Any course offered by the Societies, Institutes, and Councils of the National Association of Realtors which leads to earning any of their designations;

(d) Any course offered by a national real estate trade organization or governmental agency which is approved by the Commission;

(e) Any credit course at an accredited college or university which has real estate in its title; any course in agency; real property law; and contract law at any accredited school of law;

(f) Noncredit real estate courses offered by colleges and universities which are approved by the Commission;

(g) Any seminars offered by the Alabama Association of Realtors or their local boards which are approved by the Commission;

(h) Any Commission approved course taught by an approved instructor who is teaching for an approved school which is licensed by the State Department of Education when required to do so under the provisions of the Alabama Private School Law.

(i) Any course approved by the Commission and the Alabama Real Estate Appraisers Board which is offered by a school licensed by the State Department of Education.

(6) The curriculum presented by the course sponsors listed above in Rule 790-X-1-.11 (5) (d), (f), (g), (h) and (i) shall consist of subjects which are "core" real estate and which will assist the licensee in fulfilling the Commission's objective of protecting the public. Some examples of acceptable subject matter are real estate ethics, real estate financing, appraisal and valuation, fair housing, truth-in-lending, agency relationships, agency disclosure, liability of real estate agents, writing contracts, handling escrow funds, environmental issues, negotiating techniques, listing and buyer presentations, writing and presenting offers, showing property, sales skills, communication skills, marketing, certain financial calculator courses, and computer courses which are real estate specific and how to utilize technology in the practice of real estate. Examples of unacceptable subject matter are motivational courses, personal development courses, sales meetings, in-house training, and orientation courses, ~~courses in selling techniques~~. All course topics and content are subject to approval by the Commission.

Authority: Code of Ala. 1975, §§ 34-27-6, 34-27-8, 34-27-35.

Rule 790-X-1-.12. Continuing Education Course Approval and Requirements.

(1) All course sponsors for courses listed in Rule 790-X-1-.11(5) (d),(f),(g),(h) and (i) must apply for course approval on a form prescribed by the Commission along with a \$100 course review fee and all required documents.

(2) Approved continuing education courses must be taught only by approved instructors. The approved instructors must be present at all times during the course offering except as provided for approved courses offered through distance education.

(3) In order to be approved for continuing education credit, courses must contain a minimum of three (3) clock hours of instruction. A licensee cannot earn more than ~~six (6)~~ nine (9) hours of continuing education credit in any one day. Upon special request courses which contain one and one-half (1 ½) hours may be approved by the Commission.

(4) Course sponsors may not hold courses out as approved nor may the course be offered for continuing education credit prior to the course sponsor receiving written approval from the Commission. Course sponsors should submit the application for approval to the Commission at least 30 days prior to the proposed beginning date of the course.

(5) Course sponsors must notify the Commission of each offering by submitting the ~~name of the course and instructor, the course date(s), meeting times, and location~~ Course Information Form at least one week prior to its beginning.

(6) Changes in schedule, meeting place, or other matters required to be reported on the application for approval must be reported in writing to the Commission no later than ten (10) days prior to the change. When a course is canceled for insufficient enrollment, the Commission must be notified immediately.

~~(7) Within ten (10) days after the conclusion of each course, the instructor shall submit to the Commission an alphabetical list of the names and social security numbers of the students completing the course who request credit as real estate continuing education. This report must also include the name of the course, course dates, and number of credit hours awarded for the course.~~

~~(8) The instructor, within 10 days after completion of any approved offering, will send to the Commission, along with required roster in paragraph #7, the prescribed Certificates of Completion for all students who attended 100% of the course and who can otherwise be awarded credit for course completion. It is the instructor's responsibility to ensure that all course certificates are completely and accurately filled in including the bubbling in for each of the requested codes. Incomplete or inaccurate certificates will be returned to the instructor for correction. Beginning January 1, 2001, instructors will discontinue using rosters and Certificates of Completion and will report all course enrollment and completion electronically to the Commission via a program specified by the Commission.~~

(7) The instructor shall issue a certificate of course completion approved by the Commission to each licensee who completes an approved continuing education course at the conclusion of the class. The certificate shall at minimum contain the licensee's name, the name of the course, school and instructor, signature of the instructor, the course date(s), number of credit hours earned and location in which the course was taken.

(8) Each licensee shall be responsible for keeping a file of their original certificates of completion of approved courses as evidence of fulfilling continuing education requirements for a period of two years after signing a statement on the license renewal form that the credit has been earned. Licensees shall maintain continuing education records in the company office where their real estate license is registered or at their home if the license is inactive. Continuing education records shall be made available to the Commission upon request.

(9) When licensees renew their licenses, they shall verify the number of hours of approved continuing education hours completed. If audit shows that the representation was false or inaccurate, the licensee will be subject to revocation of his/her real estate license.

(9) (10) Each sponsor of approved continuing education courses shall maintain permanent attendance records for its students for a minimum of ~~three~~ (3) ~~years~~ four (4) years. If a school closes because it merges with another school or is bought by another school, the records for the previous four years shall be turned over to and become the responsibility of the new school. If a branch school closes, the records for the previous four years shall be turned over to and become the responsibility of the main school. In the event a school closes and there is no school to whom the records would revert, the attendance records for the previous four years must be turned over to the Commission so that student course completion can be verified for the required period of time.

(10) (11) No more than one-third of any continuing education class can be presented through videotape unless the course is an ARELLO certified distance education course.

(11) (12) Students must attend 100% of the course offering in order to be awarded continuing education credit. Instructors may take a 10-minute break after each 50 minutes of instruction. Credit will not be given for time spent on ~~breaks~~, meals, or other unrelated activities.

(12) (13) Prior to becoming licensed, a person cannot earn real estate continuing education credit.

(13) (14) Salespersons who obtain an original broker's license during the second year of the license period are not exempt from meeting continuing education requirements.

(14) (15) Salespersons who complete the prescribed 15 hours of the 60 clock hour prelicense course or who complete the 30 hour post license course

will earn 15 clock hours of continuing education credit. A temporary salesperson who takes a post license course which begins in one license period and concludes in the next license period can use the course for continuing education credit for the next renewal of his/her original license.

~~(15)~~ (16) Each student in ~~any~~ an approved continuing education course must be given a separate evaluation form containing the address and fax number of the Commission. Students shall be instructed to send that evaluation to the Commission within 30 days.

~~(16)~~ (17) In each 3 hour mandatory continuing education course listed in Rule 790-X-1-.11(1) and (2) the instructor shall develop and administer a pre-test. The pre-test shall be administered at the beginning of each class. In accordance with the statute, students are not required to obtain a passing grade on the test in order to receive credit for the course. Instructors should have a sample pre-test available upon request for review by the Commission.

~~(17)~~ (18) Licensees are responsible for maintaining accurate records of their real estate continuing education credit.

~~(18)~~ (19) Any licensee who completes a continuing education course in another state which is approved by ~~that~~ any state, may receive credit in Alabama for successful completion of that course by submitting appropriate documentation as prescribed by the Commission. Such courses will count as elective continuing education credit only. These courses are not subject to renewal procedures, instructor application and fee or the course review fee.

Authority: Code of Ala. 1975, §§34-27-6; 34-27-8; 34-27-35, 34-27-36.

Rule 790-X-1-.17 Disciplinary Actions For Instructors and Schools/Course Sponsors.

The Commission shall revoke or suspend the approval for any instructor and/or school or course sponsor who:

(1) Is a party to any falsification of any document or other information provided to the Commission.

(2) Does an inadequate job of teaching the subject matter as evidenced by student's poor performance on the state examination, student evaluations and/or Commission audits.

(3) Publishes or causes to be published any advertising which is not in accordance with Rule 790-X-1-.15.

(4) Is guilty or has been found guilty of violating or disregarding any provision of the Alabama Real Estate License Law or any rule, regulation or order of the Commission.

(5) After receiving written warning from the Commission, continues to make inaccurate comments to students regarding course content or continues to offer opinions represented as being the law on principles of law to students which are in conflict with any material contained in a Commission prescribed or approved course.

(6) Engages in conduct which constitutes or demonstrates dishonest dealings, bad faith or untrustworthiness.

(7) Engages in inappropriate conduct in the classroom including but not limited to the use of profanity, telling offensive jokes, and making inappropriate remarks unrelated to the subject matter.

(8) Fails to file with the Commission, either by paper or electronically, accurate and complete ~~forms~~ records by the required deadlines as set forth in Rules 790-X-1-.06 and 790-X-1-.12.

(9) Awards ~~a certificate of completion~~ credit to any student who fails to comply with the student attendance participation standards as set forth in Rule 790-X-1-.14.

(10) Fails to comply with the classroom facilities requirement set forth in Rule 790-X-1-.19.

(11) A revocation of instructor approval shall be for a period of two years. Any instructor whose approval has been suspended or revoked shall not be reapproved without meeting all current instructor requirements and being approved by the Commission.

Authority: Code of Ala. 1975, §§34-27-6; 34-27-8; 34-27-36.

790-X-2-.02. Applications For Examination And Licensure

(1) Should any applicant for a real estate broker's or real estate salesman's license falsely answer any questions on either his/her examination or

license application or misrepresent any facts relating to either application, said application may be rejected by the Commission and returned to the applicant. Any applicant whose application is not deemed acceptable may request a hearing before the Commission relative to such rejection.

(2) Any real estate broker who knowingly signs a license application stating the applicant under his/her sponsorship is of good reputation and is trustworthy may be held liable for such statements; and should a routine investigation of the applicant's background prove otherwise, the sponsoring broker may be subject to a fine or revocation or suspension of his/her license.

(3) Applicants must attach to the license application a recent photograph which was taken within the past 12 months.

(4) The following guidelines apply to the required errors and omissions insurance coverage for license applicants.

(a) All applicants for an active real estate license must secure errors and omissions insurance coverage either through the State of Alabama contracted group policy or optional coverage through another insurance carrier. If the license is initially issued to inactive status, proof of appropriate errors and omissions insurance coverage must be submitted to the Commission at the time of license activation.

(b) For all applicants who have their original licenses issued after October 1, 1993 the Certificate of Coverage shall begin on the date the license is issued to active status and shall not expire until September 30 of the final year of the license period.

(c) For license applicants who participate in the group policy, the insurance carrier will notify the Commission directly when application for coverage and payment are made to the insurance carrier.

(d) All license applicants who choose the option of obtaining errors and omissions insurance independently from a provider other than the group carrier under contract with the Commission, shall show evidence of coverage by providing a certificate of coverage on a form prescribed by the Commission. The form shall show proof that the applicant has coverage in compliance with the minimum requirements established by the law and the Commission. The form shall be completed in full and shall be signed by an authorized representative of the insurance provider's company. It shall then be attached to the application for an active license and submitted to the Commission. See Rule 790-X-2-.22 for additional information on optional coverage.

(e) Broker applicants who currently hold an active Alabama salesperson's license are not required to show proof of appropriate errors and omissions insurance coverage provided they are currently participating in the group policy or have shown proof of optional coverage as a salesperson.

(5) The examination fee of ~~\$75.00~~ and the application for examination must be submitted to the testing agency by the deadlines published in the Candidate Handbook. When the exam application has been processed, the applicant will be sent a written permit by the testing agency which will denote date, place and time of scheduled testing. Walk-in-testing applicants will not receive a permit.

(6) If the applicant fails to appear after having been scheduled for the exam, ~~one-half~~ of the examination fee will be forfeited.

(7) Applicants who fail the examination ~~will not receive a refund. Such examinees~~ may retake the examination by following application procedures as outlined in ~~paragraph (4) above~~ the Alabama Candidate Handbook.

(8) The passing grade for both the salesman's and broker's examination shall be seventy (70). A time limit of three and one-half (3 ½) hours is hereby set and allotted for completion of the required examination.

(9) All salesman and broker applicants must complete all required course work, including passing the course final examination, prior to taking the state examination. Failure to do so will result in the applicant being required to retake and pass the state examination after the course work has been successfully completed in order to be eligible to receive a real estate license. An examination fee must be paid for each scheduled examination.

Statutory Authority: Code of Ala. 1975, §§ 34-27-8, 34-27-32, 34-27-33, 34-27-35.1

790-X-2-.03. Issuance Of Temporary And Original Salesperson Licenses

~~(1) The fee for a temporary license shall be \$35 and the fee for an original (permanent) license shall be \$70 if issued in the first year of the license period or \$35 if issued in the second year of the license period.~~

~~(2)~~ (1) The salesperson's temporary license certificate shall be returned to the Commission in order for an original (permanent) license to be issued.

~~(3)~~ (2) A temporary license holder cannot begin to earn post license credit until after the Alabama temporary license has been issued. The license holder must provide the temporary license number to the instructor before he/she will be allowed to begin the post license course.

~~(4)~~ (3) The expiration date on a temporary license shall be six months from the first day of the month following its issuance, i.e.; the expiration date shall be midnight on the last day of the last month of the six month period. After that, the license shall be valid, although inactive, for another six months as prescribed by statute. After this one year period, the temporary license shall lapse if the holder fails to complete the 30 hour post license course and have the original (permanent) license issued. The temporary license shall lapse at midnight on the last day of the last month of the one year period.

~~(5)~~ (4) A temporary license may be on active status only during the six months following its issuance. During the remaining six months in which the temporary license holder has to complete the post license course, the temporary license may only be on inactive status. The license may be activated with the issuance of the original (permanent) license.

~~(6)~~ ~~The temporary license holder must submit a certificate on a form prescribed by the Commission showing satisfactory completion of the post license course along with the application for the original (permanent) license.~~

~~(7)~~ (5) A temporary license holder may effect a license transfer via the regular ~~prescribed by the Commission showing satisfactory completion of the post license course along with the application for the original (permanent) license transfer procedures~~ anytime during the first six months after the issuance of the temporary license.

~~(8)~~ (6) The application for the original (permanent) license must be received in the Commission office on or before the date the temporary license would lapse. Therefore, the original license application, ~~complete with~~ appropriate fees and proof of completion of the post license course certificate, must be received in the Commission office on or before midnight on the last day of the month which is one year from the first day of the month following the issuance of the temporary license.

Statutory Authority: Code of Ala. 1975, §§ 34-27-6; 34-27-8; 34-27-33.